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Attorneys for Southwest Energy Efficiency Project

BEFORE THE ARIZONA CORPORATION COMMISSION

7 MIKE GLEASON, Chairman
8 WILLIAM A. MUNDELL
9 JEFF HATCH-MILLER
10 KRISTIN K. MAYES
11 GARY PIERCE

12 IN THE MATTER OF THE APPLICATION OF
13 TUCSON ELECTRIC POWER COMPANY FOR
14 THE ESTABLISHMENT OF JUST AND
15 REASONABLE RATES AND CHARGES
16 DESIGNED TO REALIZE A REASONABLE
17 RATE OF RETURN ON THEIR FAIR VALUE
18 OF ITS OPERATIONS THROUGHOUT THE
19 STATE OF ARIZONA.

Docket No. E-01933A-07-0402

Docket No. E-01933A-05-0650

SWEEP'S OPENING BRIEF

20 IN THE MATTER OF THE FILING BY
21 TUCSON ELECTRIC POWER COMPANY TO
22 AMEND DECISION NO. 62103.

23 Southwest Energy Efficiency Project submits the attached Opening Brief in
24 connection with the above referenced matter.
25

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Arizona Corporation Commission

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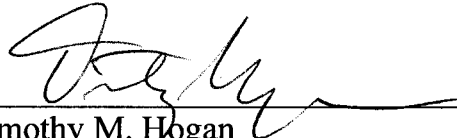
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1 DATED this 29th day of August, 2008.

2 ARIZONA CENTER FOR LAW IN
3 THE PUBLIC INTEREST

4
5 By 
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8 Phoenix, Arizona 85004
9 Attorneys for Southwest Energy Efficiency
10 Project

11 ORIGINAL and 15 COPIES of
12 the foregoing filed this 29th day
13 of August 2008, with:

14 Docketing Supervisor
15 Docket Control
16 Arizona Corporation Commission
17 1200 W. Washington
18 Phoenix, AZ 85007

19 COPIES of the foregoing
20 electronically transmitted
21 this 29th day of August, 2008 to:

22 All Parties of Record
23
24
25

1 **Opening Brief of the Southwest Energy Efficiency Project (SWEEP)**

2
3 **Settlement Agreement**

4 SWEEP does not support or oppose the Settlement Agreement. SWEEP 2 at 1.
5 In the settlement discussions SWEEP focused primarily on the Demand Side
6 Management (DSM) issues and SWEEP addressed the DSM issues in Mr. Schlegel's
7 direct testimony.

8
9 **Cost-Effective DSM Programs: Timing of Approval and Implementation**

10 Cost-effective DSM programs should be designed and implemented, and existing
11 DSM programs revised and expanded, substantially and expeditiously, to serve TEP
12 customers, so that more customers can reduce their electricity costs and mitigate the
13 effects of any rate increase through increased energy efficiency. SWEEP 2 at 1.

14
15 TEP customers should receive the benefits of increased, cost-effective DSM
16 programs as soon as possible. SWEEP 2 at 1. All customers should have the opportunity
17 to reduce their energy costs through participation in DSM programs prior to the
18 implementation of any rate increase. Id. Delaying the implementation of cost-effective
19 DSM programs disadvantages customers and increases the total costs customers pay. Id.

20
21 The TEP-proposed DSM programs are being reviewed in a separate docket
22 (Docket No. E-01933A-07-0401) in parallel to this proceeding. SWEEP previously
23 recommended the two parallel proceedings. SWEEP supports this approach and the
24 current schedule of Commission review. SWEEP 2 at 2. SWEEP appreciates the efforts
25 of Staff and the Commission to review and approve the DSM programs in a timely
26 manner, so that the programs can be implemented to benefit TEP customers as soon as
27 possible, and prior to any increase in rates. Id.

1 **Funding for Cost-Effective DSM Programs and the DSM Adjustor Mechanism**

2 The DSM programs should be supported by adequate funding in two ways: (1)
3 ultimately through the DSM Adjustor being considered in this proceeding; and (2) in the
4 meantime (beginning in 2008 for Commission approved programs) with existing DSM
5 funding plus a reallocation of funding back to DSM (funding returned to DSM now that
6 the REST surcharge has been implemented). Schlegel oral testimony, 7/11/08.

7
8 SWEEP supports the use of a DSM Adjustor Mechanism for DSM cost-recovery,
9 and supports the DSM Adjustor set forth in the Settlement Agreement. SWEEP 2 at 3.
10 Specifically, SWEEP supports the DSM Adjustor mechanism recommended by Staff in
11 its Direct Rate Design testimony in this proceeding, the initial funding level of the DSM
12 Adjustor of \$6,384,625, and the initial DSM Adjustor rates of \$0.000639 per kWh for all
13 kWh sales. Id. Timely Commission approval of a DSM cost-recovery mechanism would
14 speed the implementation of cost-effective DSM and energy efficiency programs
15 approved by the Commission, to the benefit of TEP customers. Id.

16
17 Implementation of Commission-approved DSM programs should not be delayed
18 until the approval of the DSM Adjustor in this proceeding. Schlegel oral testimony,
19 7/11/08. TEP has indicated that the total DSM funding currently available in 2008 (about
20 \$3.3 million including some funding returned to DSM now that the REST surcharge has
21 been implemented) is adequate to fund the existing and new DSM programs. SWEEP 2
22 at 3. Therefore, an interim DSM cost-recovery mechanism in this proceeding is not
23 necessary at this time. Schlegel oral testimony, 7/11/08. However, if customer response
24 to the programs in the latter half of 2008 is very strong and TEP finds that then-available
25 DSM funding is inadequate, SWEEP would recommend an accounting mechanism to
26 provide interim cost-recovery for Commission-approved DSM programs and
27 expenditures, until such time that the DSM Adjustor or other mechanism is adopted by
28 the Commission. SWEEP 2 at 3; Schlegel oral testimony, 7/11/08.

1 **Initial Ramp Up of TEP DSM Programs and the Need for Additional Funding**

2 The five-year (2008-2012) TEP-proposed DSM Plan and the proposed funding
3 level of the DSM Adjustor Mechanism are unlikely to be adequate over the next five
4 years. SWEEP 2 at 3. SWEEP considers the TEP-proposed DSM portfolio to be an
5 initial ramp up (combined with an expansion of existing programs) to a more complete
6 portfolio of programs to address a wider range of customer needs and segments. Id.

7
8 It is likely that additional funding for Commission-approved DSM programs will
9 be needed in future years, and probably much earlier than 2012, due either to strong
10 customer response to the programs currently being proposed, or to new or expanded
11 DSM programs. SWEEP 2 at 3, 4; Schlegel oral testimony, 7/11/08. For the
12 Commission-approved, cost-effective DSM programs, the spending levels should be able
13 to increase in between rate cases in response to program success and customer
14 participation, and should be recovered through an increase in the DSM Adjustor. Id. The
15 Commission and Staff should be notified of the DSM program spending increase, and the
16 Commission can choose whether or not to take action on it; however, the spending
17 increase for Commission-approved programs should not require Commission pre-
18 approval or other action by the Commission.¹ Id. If the estimated spending increase is
19 significant, Staff or the Company could notify the Commission of such and request
20 Commission pre-approval of the spending increase. Schlegel oral testimony, 7/11/08.

21
22 TEP, Staff, SWEEP, or other stakeholders should be able to propose new DSM
23 programs in between rate cases, for Commission and Staff review. SWEEP 2 at 4. New
24 programs should be reviewed by Staff and approved by the Commission prior to
25 implementation, consistent with current practice. Schlegel oral testimony, 7/11/08.

¹ The Commission continues to have the authority and ability to initiate any DSM program revisions or spending adjustments it feels are appropriate, and Staff could provide any such recommendations to the Commission on its own initiative.

1 Spending levels for new programs can be set during Commission approval, and the costs
2 should be recovered through the DSM Adjustor. Id.

3
4 Any delay in increasing DSM program spending to meet increasing customer
5 interest and growing customer needs would result in waiting lists and dissatisfied
6 customers, as well as higher total costs for customers. Id.

7
8 **DSM Performance Incentive**

9 SWEEP supports the DSM Performance Incentive as clarified in Staff's rebuttal
10 testimony (Keene Rebuttal, page 3). SWEEP 2 at 4. In this performance-based incentive
11 mechanism, TEP would have the opportunity to earn up to 10% of the measured net
12 benefits from the eligible DSM programs, capped at 10% of the actual program spending.
13 Id. This is a positive incentive to encourage the achievement of net benefits, with at least
14 90% of the net benefits accruing to customers. Id.